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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,220	09/30/2003	Teddy J. May	006911-0302822	1596

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,220

Applicant(s)

MAY, TEDDY J.

Examiner

Stephen D'Adamo

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

2. The disclosure is objected to because of the following informalities:
- In paragraph 23, line 6, "spring mounting blocks 32" is incorrectly labeled. The spring mounting blocks are referenced as 30 and 34.
 - In paragraph 27, line 4, "the handle 68" should be referenced as 18.
 - In paragraph 34, line 4, "a pin 138" is referenced as 120. Correction is suggested.
 - In paragraph 41, line 13, "first and second locking links 142, 156" should be changed to reference numbers 152, 156.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3636

Claims 1-11 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claim 1, line 11 claims “a driving link connected to said torque tube” and line 14 claims, “a drive link interpivotally connected....” As understood, there is only one driving link 114. The drive link is positively claimed twice and is confusing and unclear. Clarification is needed. Claims 9 and 11 have similar indefiniteness.
- The claims are confusing and unclear since they disclose, “a drive member” and “a locking element” which cannot be found in the disclosure. Through trial and error, the examiner understands the drive member to be the drive element 122 and the locking element to be the lock roller 150. Clarification is needed.
- Claim 13 recites, “a set of interpivotated support links” in lines 15 and 20 which renders the claims indefinite. It is suggested to include terminology similar to “first” and “second” to avoid indefiniteness.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 6-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers (5,121,967).

Art Unit: 3636

Rogers discloses a rocker recliner comprising a base 10, a left and right rocker cam assembly 12 including a rocker cam positioned at a cam bearing location on the base and a left and right side linkage. "The footrest [ottoman] linkage is actuated from a retracted position to an extended position by means of a handle actuator fixed to a shaft or torque tube 52 through mounted in the seat link 26" (col.3, lines 17-21). A rocker locking assembly includes a pair of stops 42 and 44 "to prevent further rocking of the seat relative to the base" (col.3, lines 64-65). Furthermore, the carrier link or drive link 22 is slidably connected to one of the rocker cam assemblies through a second pair of cam surfaces - slot 97 and pin 99. The drive link is also slidingly connected to a drive member 20, which drives locking elements 34, 36, and 38 to prevent rocking of the cams relative to the base. Rogers also discloses a plurality of locking elements 34, 36 and 38 wherein one of the locking elements is pivotally connected to the base via mounting link 14. The locking elements move into a locked position in which they align in an arrangement to prevent rocking motion.

Regarding claims 6-8, the seat surface or link 26 is pivotally connected to the cam assemblies 12 through a plurality of link members, wherein each link member is pivotally mounted to one another. The ottoman linkage or footrest linkage is also pivotally mounted to the seat link 26.

Allowable Subject Matter

5. Claim 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Art Unit: 3636

6. Claims 3-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Guillot et al. (6,733,071), Pine (6,309,015), Lawson (6,000,754), Pine (5,564,781), Rogers, Jr. (4,707,025), Pine (4,601,513), Rogers, Jr. (4,319,780), Cecil (4,071,276), Rogers et al. (3,767,257), Izchak (3,352,601) and Krikorian (2,746,519) all show various features of the claimed invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD

sd
August 18, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600